

REMARKS/ARGUMENTS

Claims 1-19 are cancelled and claims 20-91 are now pending in the patent application.

I. THE CLAIM FOR PRIORITY

The claim for priority is amended to reference the serial no. of the priority applications.

II. THE INFORMATION DISCLOSURE STATEMENT

This response is also being submitted with a Supplemental Information Disclosure and an accompanying fee for submitting the same after the first Office Action.

III. THE DRAWING OBJECTIONS

In paragraphs 3-5 of the Office Action, the drawing is objected as failing to comply with Rule 84.

The drawing and/or the specification have been amended in view of the points raised in paragraphs 3-4.

Nevertheless, it is respectfully submitted that the patent application, page 8, line 17, includes reference label “21”; page 15, line 8, includes the reference labels “204, 206”; page 21, line 23, includes the reference label “309”; page 34, line 6, includes the reference label “632”.

Moreover, enclosed are proposed amendments to the drawing with red ink marking and corrected pages. Approval of the drawing changes is respectfully requested.

In view of these amendments, reconsideration and withdrawal of the drawing objection is respectfully requested.

IV. THE SPECIFICATION

In paragraphs 6-8 of the Office Action, the specification is objected to for a number of informalities.

The specification has been amended in view of the points raised by the Examiner in paragraphs 6-8.

The abstract is also rewritten so as to be under 150 words.

In view of these amendments, reconsideration and withdrawal of the objection to the specification is respectfully requested.

V. THE CLAIM OBJECTION

In paragraph 9 of the Office Action, dependent claim 11 is objected to.

Claim 11 is cancelled.

For this reasons, it is respectfully requested that the objection to the claims be reconsidered and withdrawn.

VI. THE DOUBLE PATENTING REJECTIONS

A. The Statutory Double Patenting Rejection

In paragraphs 10 and 14 of the Office Action, the pending claims are rejected based on a statutory double patenting rejection in view of the claims in copending application no. 10/645,689 (CV-0038).

It is respectfully submitted that the applications cited therein are companion cases to the instant application that will be allowed to lapse into abandonment. An Office Action was recently mailed for the copending application no. 10/645,689 and at this time no response is intended to be filed.

For this reasons, it is respectfully requested that the statutory double patenting rejection be reconsidered and withdrawn.

B. The Judicially Created Double Patenting Rejection

In paragraphs 13, 15 and 16, the pending claims are rejected based on a judicially created double patenting rejection in view of the claims in other copending applications.

It is respectfully submitted that upon the issuance of a Notice of Allowance and payment of the issue fee, a terminal disclaimer will be filed to overcome these rejections.

For this reasons, it is respectfully requested that the judicially created double patenting rejection be reconsidered and withdrawn.

VII. THE ANTICIPATION REJECTIONS

A. GROT ET AL.

In paragraphs 15-16 of the Office Action, claims 1, 11, 14-15 and 18-19 are rejected as being anticipated by Grot et al.

These claims are cancelled and a new set of claims is added to recite an encoded particle and/or method for reading the same includes the grating being embedded within a substantially single material of the substrate, consistent with that discussed in the aforementioned phone with the Examiner in relation to the corresponding patent applications.

In view of this, it is respectfully submitted that these claims are deemed to be in condition for allowance.

B. FRANKEL

In paragraph 17 of the Office Action, claims 1-3, 5, 8-9, 11 and 13-19 are also rejected as being anticipated by Frankel.

In addition to that discussed above, the new set of claims recites either an encoded particle, or method for reading the same, that includes not only the grating being embedded within a substantially single material of the substrate, but also the grating providing an output optical signal indicative of a code when illuminated by an incident light, wherein the code identifies at least one of the element or particle, and the output optical signal is a result of passive, non-resonant scattering from the grating when illuminated by the incident beam, consistent with that discussed in the aforementioned phone with the Examiner in relation to the corresponding applications.

In view of this, it is respectfully submitted that these claims are deemed to be in condition for allowance.

VIII. THE REMAINING OBVIOUSNESS REJECTIONS

In paragraphs 18-20 of the Office Action, the remaining claims are rejected as being obvious over Frankel alone or in combination with Ravkins et al. However, it is respectfully submitted that these claims depend directly or indirectly from the main independent claim 20 contain all the limitations thereof, and are deemed patentable over Frankel et al. for all the reasons discussed above.

IX. CONCLUSION

Reconsideration and early allowance of the claims is earnestly solicited.

If the Examiner has any questions regarding this Response, Applicant's counsel can be reached at 203-626-3331 (direct dial) between the hours of 8:00 a.m. and 6:00 p.m. or by E-mail at gdepardo@cyvera.com, or the undersigned attorney may be contacted at (203) 261-1234.

Respectfully submitted,



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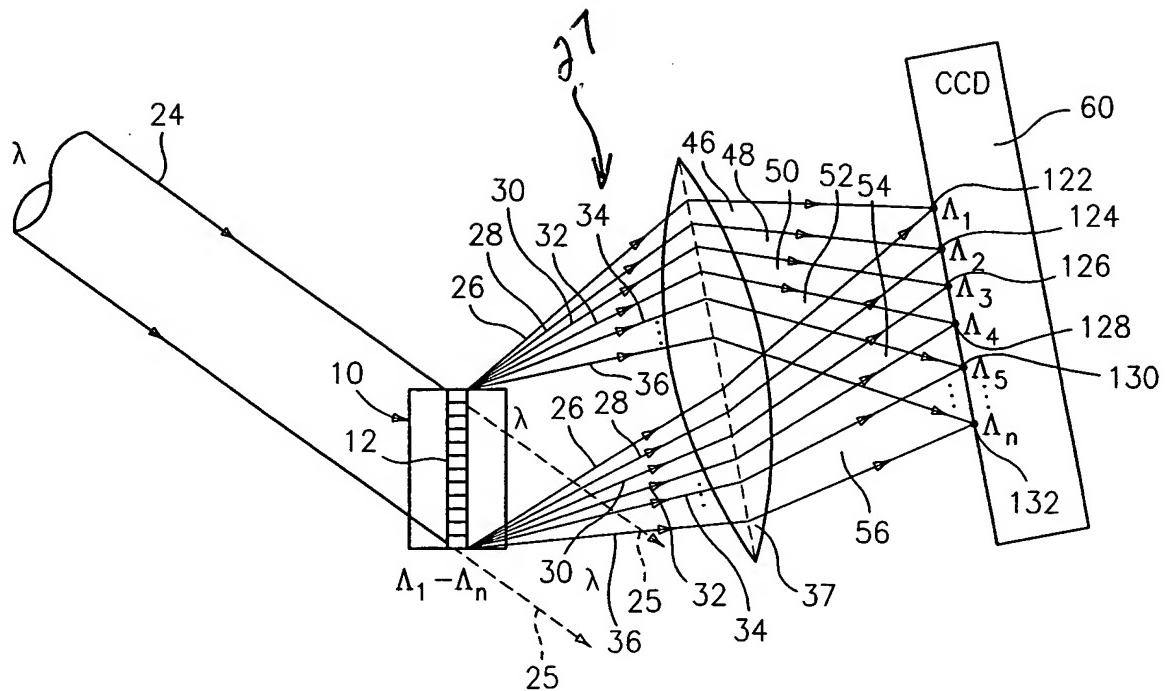


FIG. 6

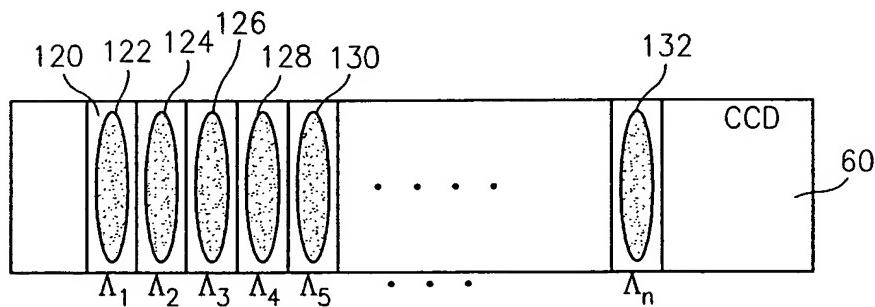


FIG. 7

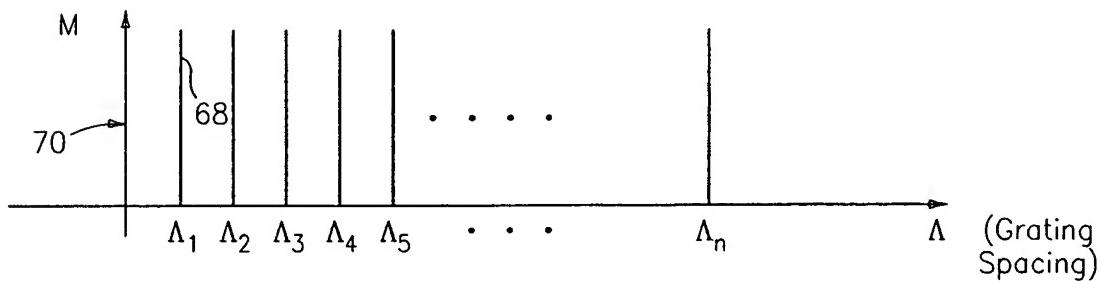


FIG. 8

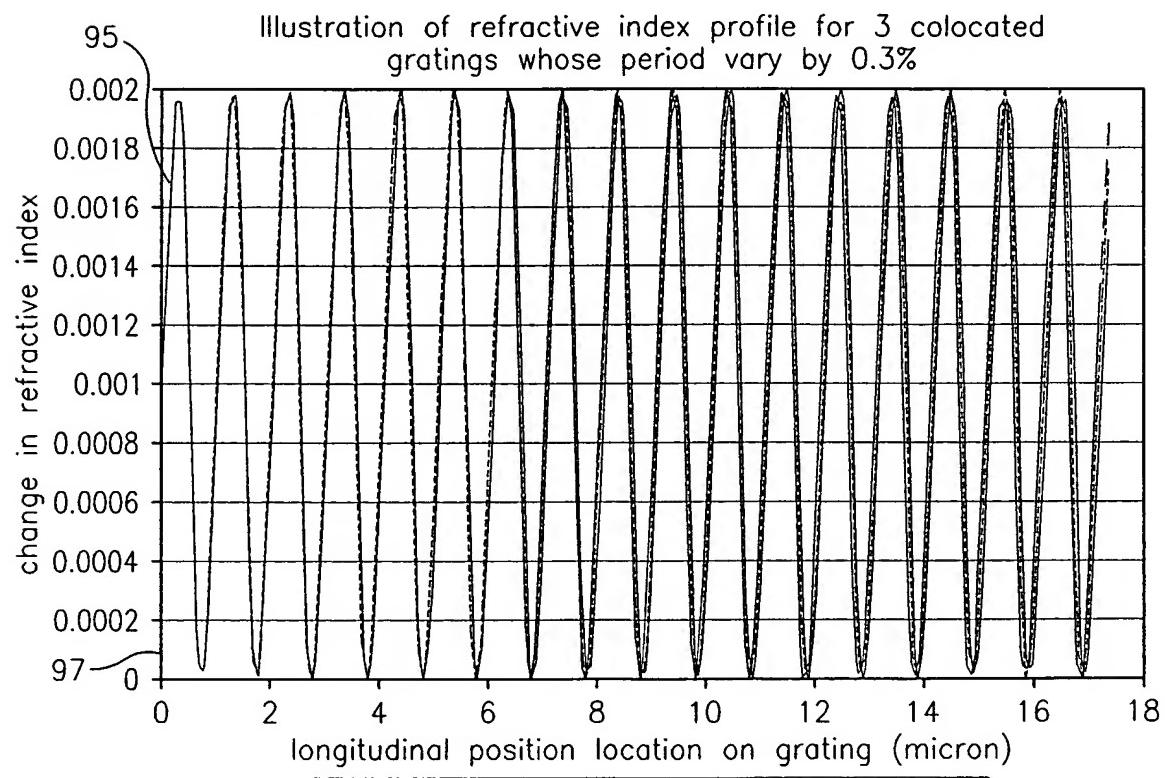
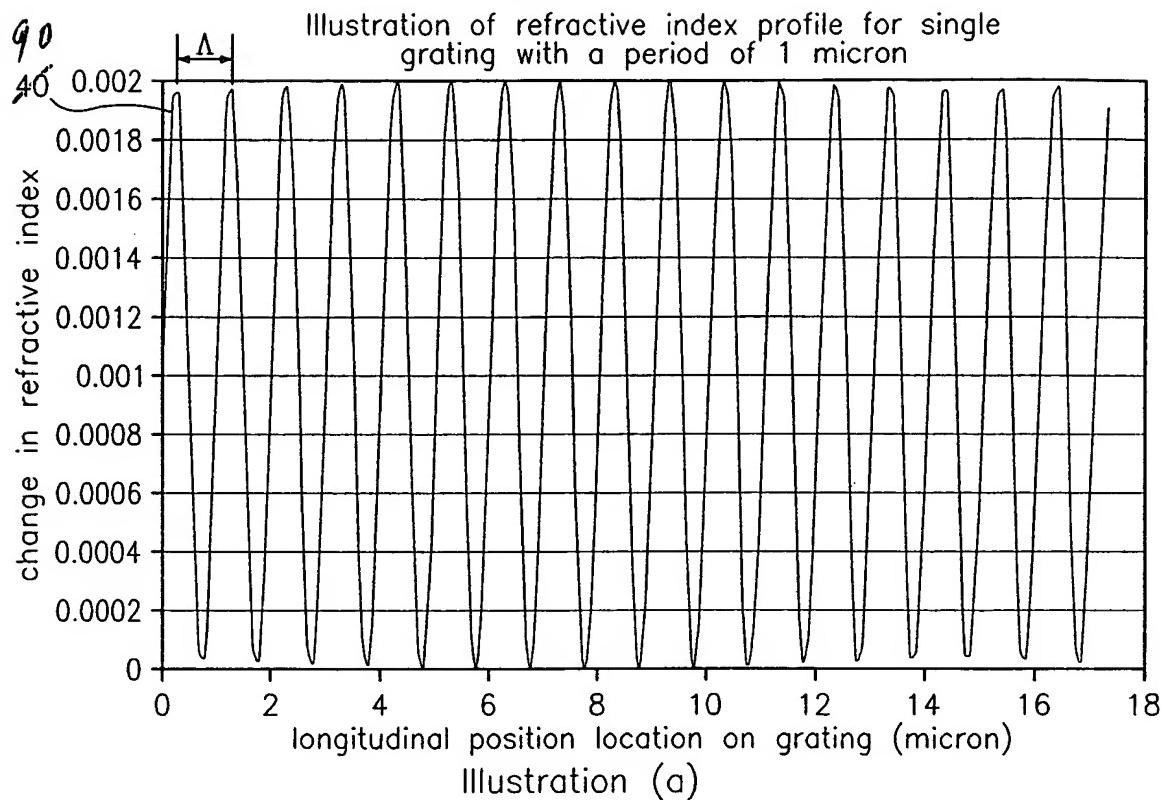
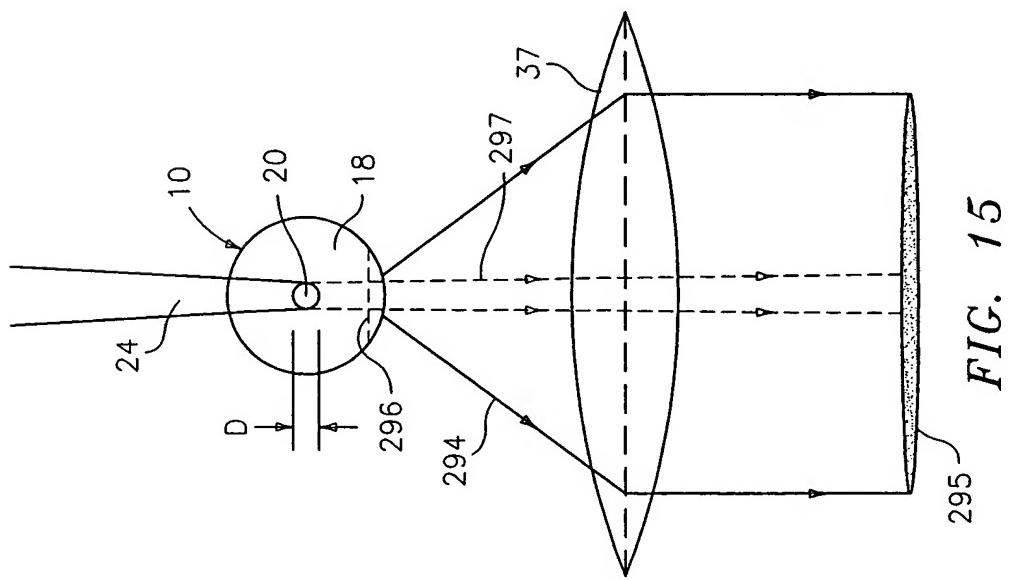
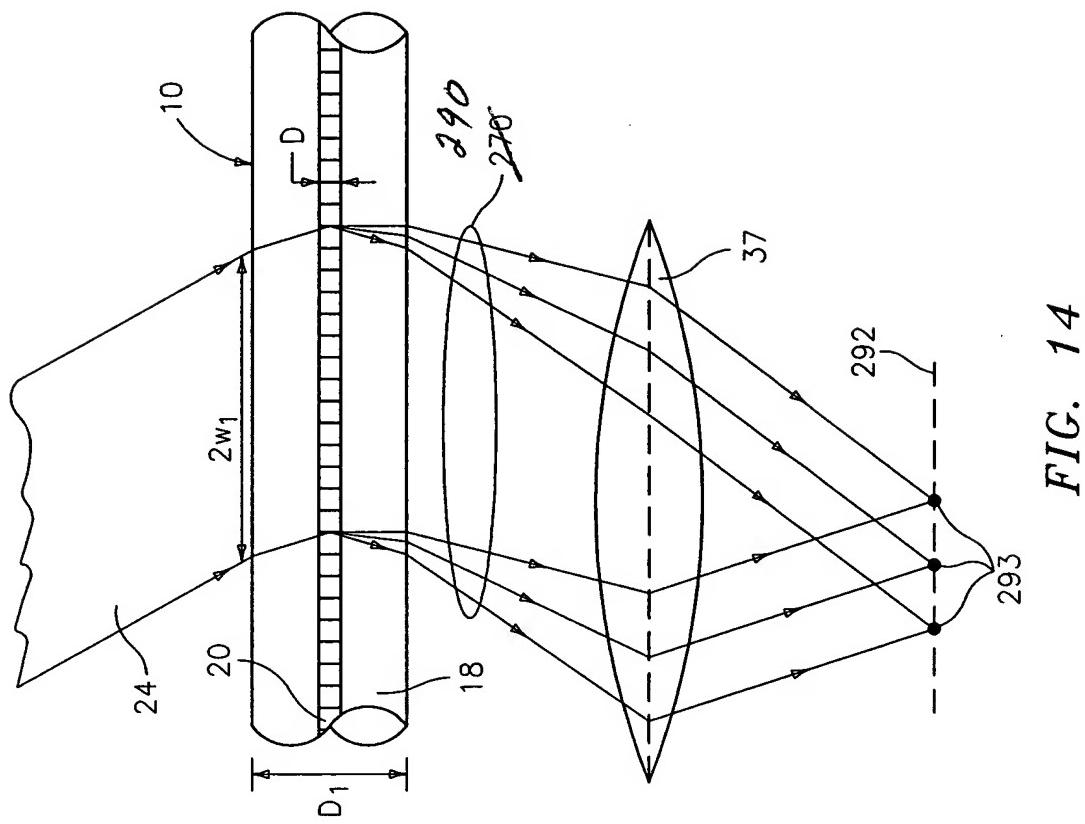


FIG. 10 --- grating 1 ----- grating 2 —— grating 3

Illustration (c)

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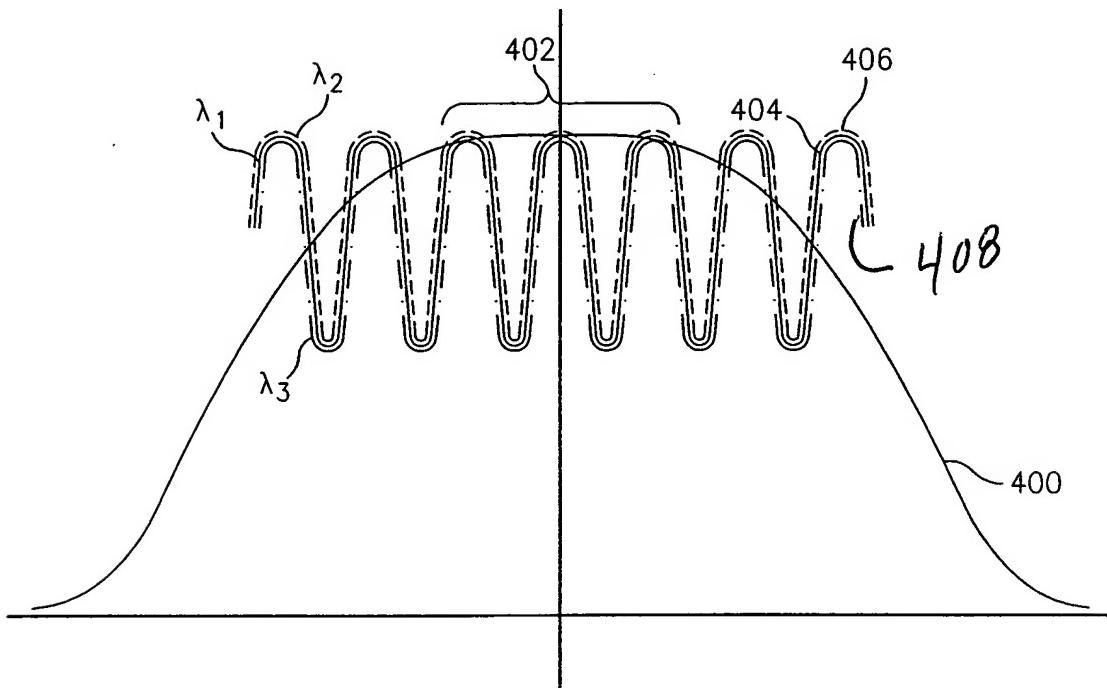


FIG. 22

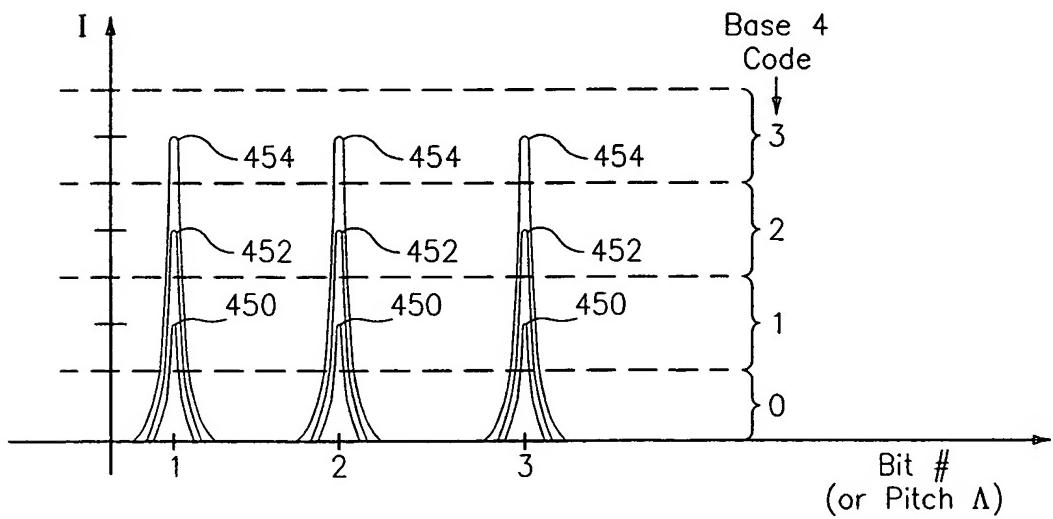


FIG. 27

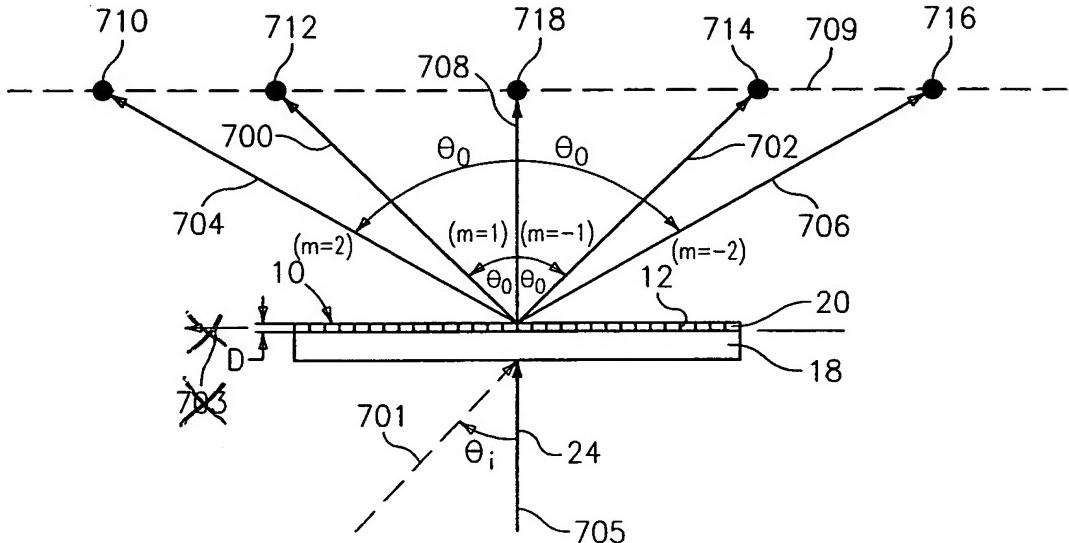


FIG. 23

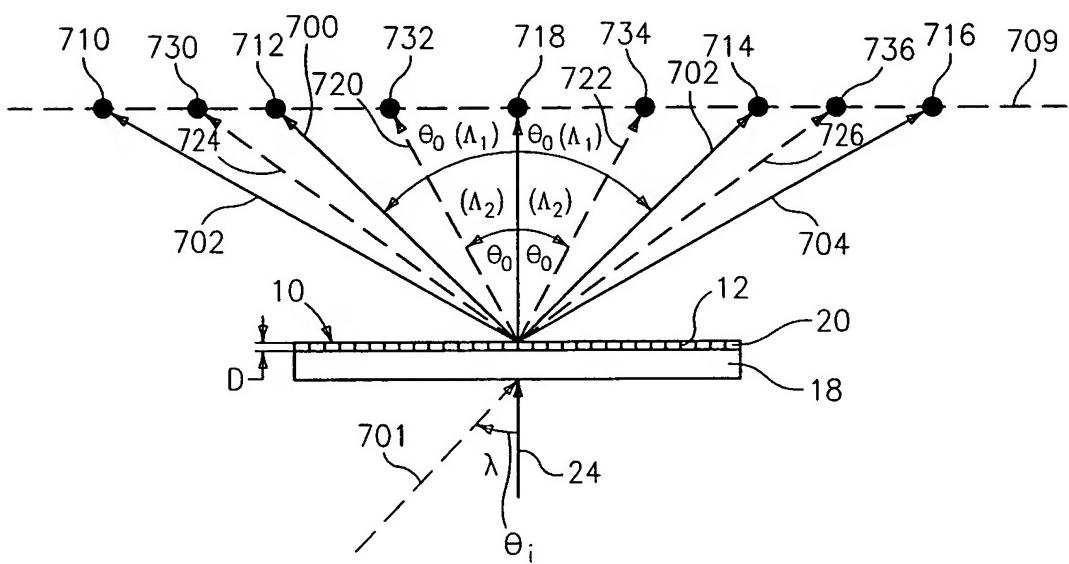
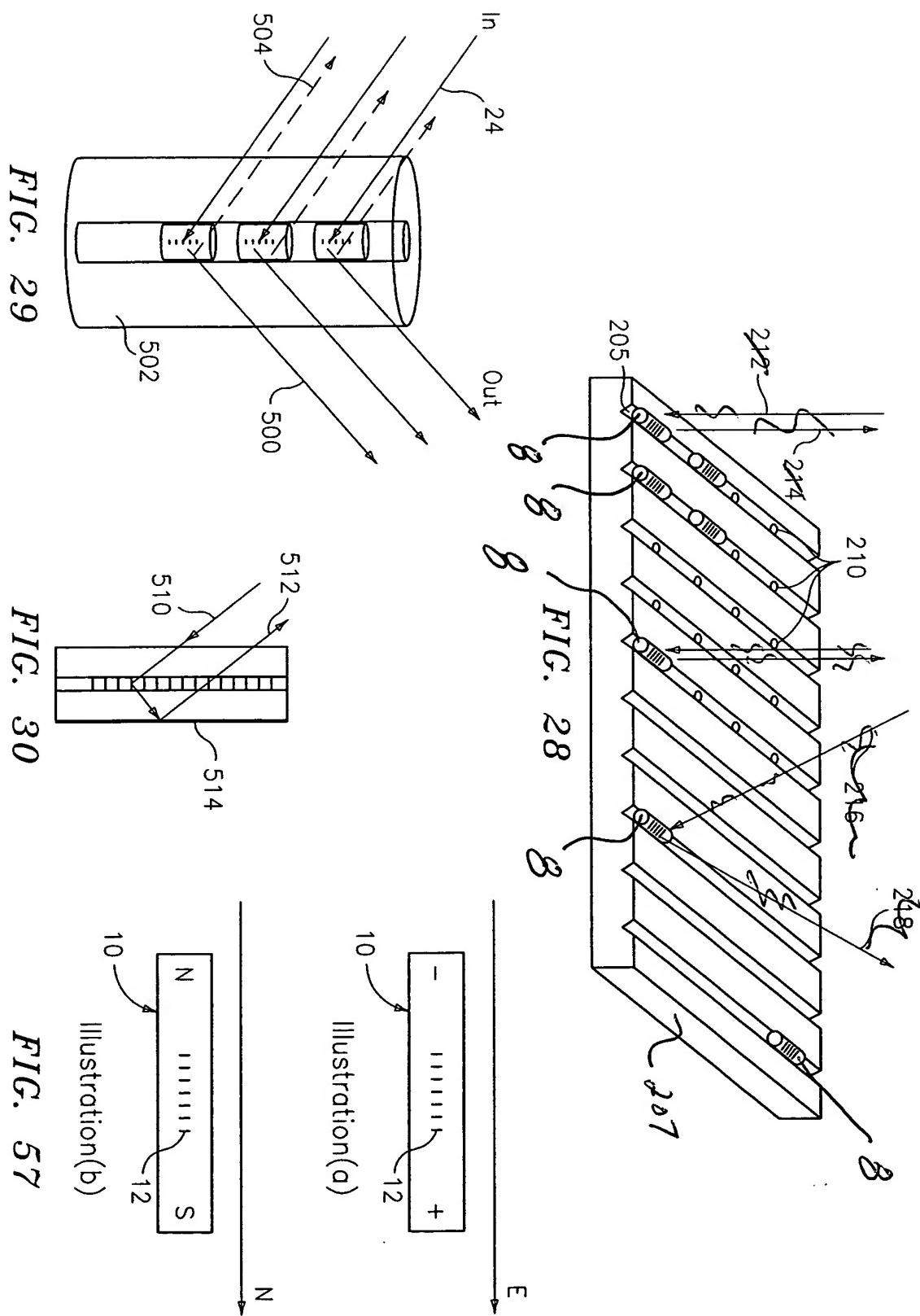


FIG. 24



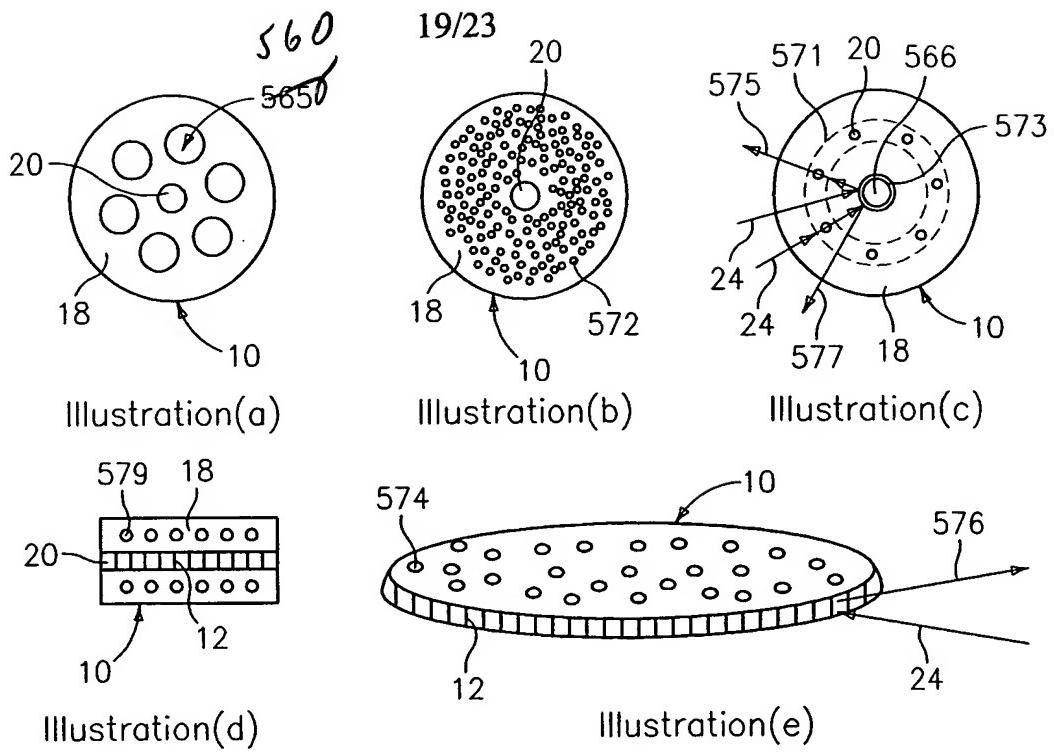


FIG. 41

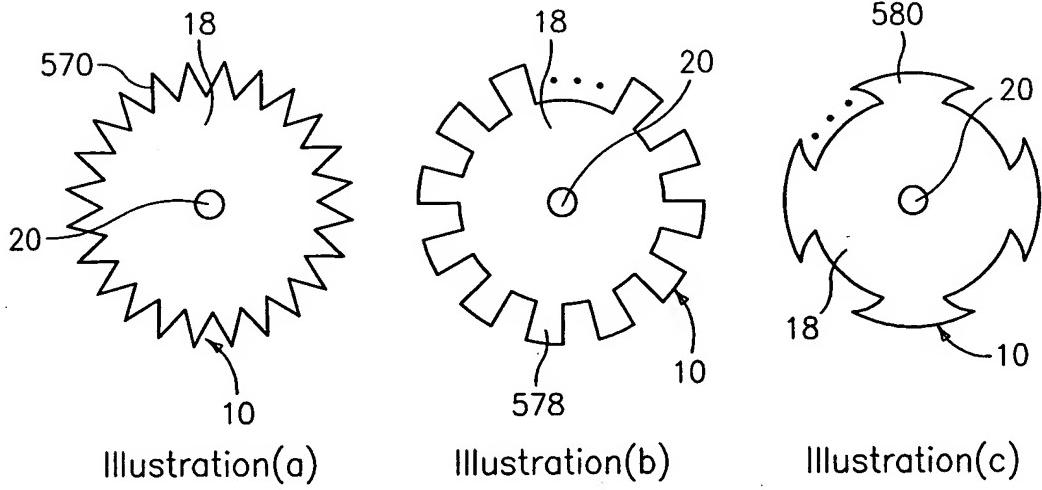


FIG. 42

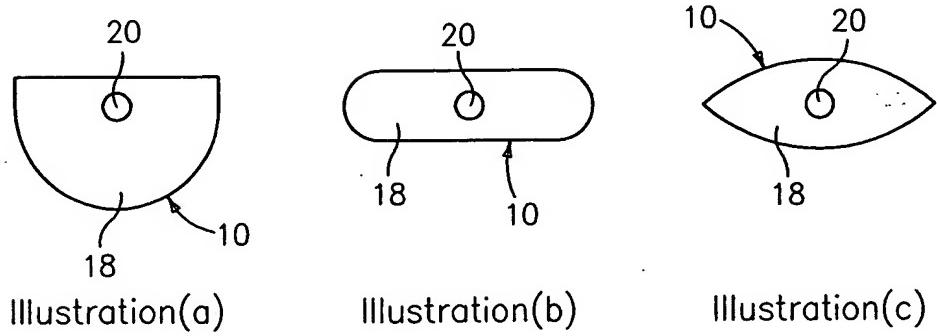


FIG. 43

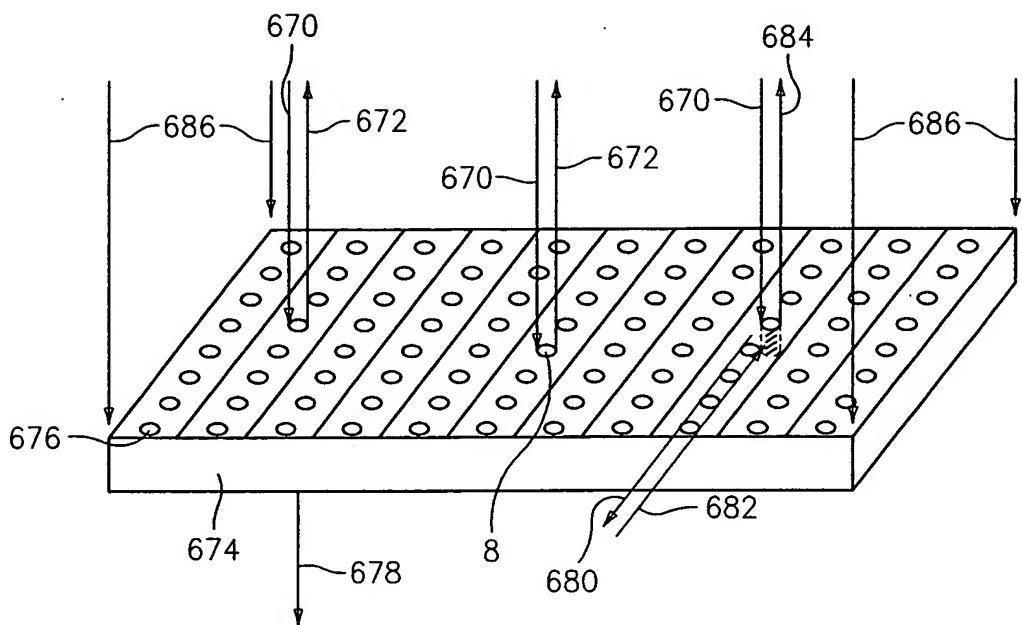


FIG. 52

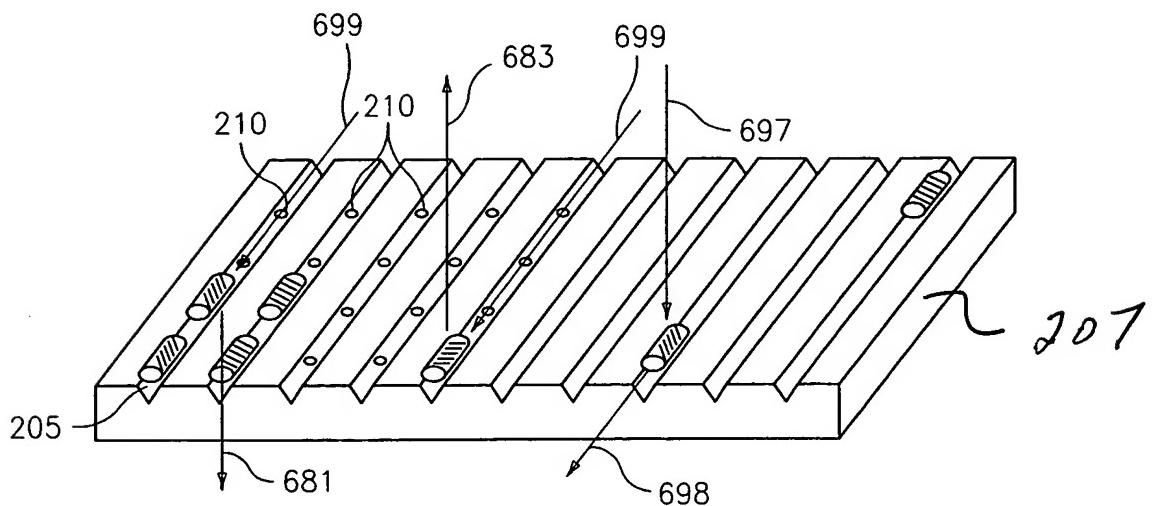


FIG. 53